

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

**Notice FLP-163**

442.11

**For:** State and County Offices

**Indian Tribal Land Acquisition Program (ITLAP) Loans**

**Approved by:** Deputy Administrator, Farm Loan Programs

*Carolyn B. Cooksey*

**1 Overview**

**A**

**Background**

OIG audits and program reviews have identified concerns about the making and servicing of ITLAP loans. As a result, interim guidance and clarification is provided until new regulations are issued.

**B**

**Purpose**

This notice:

- provides clarification of existing requirements when making and servicing ITLAP loans
- provides clarification of SED and DD responsibilities
- obsoletes Notice FLP-122.

**2 Action**

**A**

**Lien on Land  
Acquired With  
ITLAP Funds**

FmHA Instruction 442.11 IX states, "Ordinarily, the security will include a first lien on land acquired with loan funds plus assignment(s) of income. However, the security may consist only of assignments of income if the [SED] determines that this will provide as good or better security than the land acquired with loan funds."

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**Disposal Date**

June 1, 2002

9-22-00

**Distribution**

State Offices; State Offices relay to County Offices

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### 2 Action (Continued)

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#### A

##### **Lien on Land Acquired With ITLAP Funds (Continued)**

FSA policy states that a lien will be taken on all land to be acquired with ITLAP funds unless prior written concurrence is obtained from DAFLP about the determination that an assignment of income will provide as good or better security than the land acquired with loan funds.

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#### B

##### **Test for Credit for ITLAP Loans**

FmHA Instruction 442.11 III B states, "To be eligible for an [ITLAP] loan, the tribe must be unable to obtain sufficient credit elsewhere at reasonable rates and terms to finance the proposed land acquisition." When evaluating the availability of other credit, the tribe must be unable to obtain financing from private and commercial sources, as well as BIA.

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#### C

##### **Condition for Loan Approval**

SED must add the following condition according to FmHA 1940-1, item 44, "A corresponding reduction in loan principal must accompany the sale of assets that are not renewable within the life of the loan".

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#### D

##### **Accounting of Funds**

FmHA Instruction 442.11 VIII E requires that the following be established at loan closing:

- land acquisition
- debt service
- reserve accounts.

SED's must:

- coordinate with the tribe and BIA to ensure that the specific requirements for the land acquisition, debt repayment, and reserve accounts, according to FmHA Instruction 442.11 VIII E, are established and met throughout the life of the loan
- must review existing ITLAP loans annually and document findings about compliance.

**Note:** Any problems that SED's are unable to resolve shall be reported to DAFLP.

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### 2 Action (Continued)

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#### E

##### Responsibility

DD, whose district includes an Indian Reservation that is recognized by the Federal Government, shall be the primary contact in making and servicing ITLAP loans.

DD's shall submit to SED and SED shall submit to DAFLP by December 31, their documentation about existing ITLAP loans as follows:

- compliance according to FmHA Instruction 442.11
  - graduation reviews according to FmHA Instruction 1951-F
  - any planned loan restructuring activity according to FmHA Instruction 1951-E.
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#### F

##### Contact

If there are any questions about this notice, contact Gary West, LSPMD, Guaranteed Loan Servicing and Inventory Property Branch, at 202-690-4008.

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